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8 INSIGHT GLOBAL LLC (erroneously sued as
9 "INSIGHT GLOBAL, INC.")

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12
13 STEPHANIE ROSENBAUM,
14 individually and on behalf of all
15 others similarly situated,

16 Plaintiff,

17 vs.

18 INSIGHT GLOBAL, INC.

19
20 Defendant.

Case No. '15CV2837 L JMA

**DEFENDANT'S NOTICE OF
REMOVAL TO THE UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF
CALIFORNIA**

**[28 U.S.C. §§ 1331, 1332, 1441, 1446,
AND 1453]**

Complaint Filed: November 6, 2015

1 **TO THE COURT AND TO PLAINTIFF STEPHANIE ROSENBAUM**
 2 **AND HER ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE THAT** Defendant Insight Global LLC
 4 (erroneously sued as “Insight Global, Inc.”) (“Defendant” or “Insight Global”)
 5 hereby removes the above-entitled action from the Superior Court of the State of
 6 California for the County of San Diego to this Court pursuant to 28 U.S.C. §§ 1331,
 7 1332, 1441, 1446, and 1453. Removal is based on the following grounds:

8 **I. PROCEDURAL BACKGROUND**

9 1. On November 06, 2015, Plaintiff Stephanie Rosenbaum (“Plaintiff”)
 10 commenced this action against Defendant in the Superior Court of the State of
 11 California for the County of San Diego, entitled *Stephanie Rosenbaum v. Insight*
 12 *Global, Inc.*, Case No. 37-2015-000374548-CU-MC-CTL (“Complaint”). Plaintiff
 13 alleges that Defendant failed to provide her with a stand-alone disclosure before
 14 procuring a background check on her in connection with her employment
 15 application in violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. 1681
 16 *et seq.* Plaintiff brings this claim on behalf of herself and “[a]ll individuals about
 17 whom Defendant obtained a consumer report for employment purposes in the two
 18 years predating the filing of this Complaint continuing through the date the class list
 19 is prepared.” (Compl. ¶ 39).

20 2. Plaintiff seeks, on behalf of herself and each purported class member,
 21 statutory penalties of “not less than \$100 and not more than \$1,000,” punitive
 22 damages, attorneys’ fees, and costs. (Compl. ¶ 48).

23 3. Defendant was served with a copy of the Complaint on or about
 24 November 16, 2015. Attached hereto as **Exhibit A** is a true and correct copy of the
 25 Complaint and accompanying documents that were served on Defendant.

26 4. **Exhibit A** constitutes all process, pleadings, and orders that have been
 27 filed in this action.

28

1 **II. THIS REMOVAL IS TIMELY**

2 5. A Notice of Removal must be filed “within 30 days after receipt by
 3 defendant, through service or otherwise, of a copy of the initial pleading setting
 4 forth the claim for relief upon which action or proceeding is based. . . .” 28 U.S.C.
 5 § 1446(b)(1).

6 6. Here, Plaintiff served Defendant with the Summons and Complaint on
 7 November 16, 2015. Thirty days from November 16, 2015 falls on December 16,
 8 2015.

9 7. Because this Notice of Removal is filed on December 16, 2015, it is
 10 timely pursuant to 28 U.S.C. § 1446(b)(1).

11 8. No previous Notice of Removal has been filed or made with this
 12 Court for the relief sought.

13 **III. FEDERAL QUESTION JURISDICTION**

14 9. This Court has original jurisdiction over this civil action pursuant to
 15 28 U.S.C. §§ 1331 because Plaintiff has alleged a claim under the Fair Credit
 16 Reporting Act, which presents a federal question.

17 10. The removal of this civil action is therefore proper under 28 U.S.C.
 18 § 1441(a) because this is a civil action brought in state court over which the district
 19 courts of the United States have original jurisdiction, and this District Court
 20 embraces the place in which the state action is pending.

21 **IV. DIVERSITY JURISDICTION**

22 11. Additionally, this is a civil action of which the Court has jurisdiction
 23 pursuant to the Class Action Fairness Act of 2005 (“CAFA”) because this matter
 24 was brought as a class action, diversity of citizenship exists between one or more
 25 members of the putative class and defendant, the number of proposed class
 26 members is 100 or greater, and the amount placed in controversy by Plaintiff’s
 27 Complaint exceeds, in the aggregate, \$5 million, exclusive of interest and costs. 28
 28 U.S.C. §§ 1332(d)(2), 1453. Removal under diversity jurisdiction is therefore

1 proper pursuant to 28 U.S.C. §§ 1441, 1446, and 1453.

2 **A. Diversity of Citizenship Exists Among the Parties**

3 12. Diversity of Citizenship exists in this matter because (1) Plaintiff
 4 Rosenbaum, is and was at the time she filed this action, a citizen of California; and
 5 (2) Defendant Insight Global is, and was at the time Plaintiff Rosenbaum filed this
 6 action, not a citizen of California, but a citizen of Georgia.

7 1. **Plaintiff is a Citizen of California**

8 13. “An individual is a citizen of the state in which he is domiciled.”
 9 *Boon v. Allstate Ins. Co.*, 229 F. Supp. 2d 1016, 1019 (C.D. Cal. 2002) (*citing*
 10 *Kanger v. Warner- Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001)). Plaintiff
 11 Rosenbaum alleges that she is a “resident of San Diego, California.” (Compl. ¶ 3).
 12 Thus, Plaintiff Rosenbaum was domiciled in the State of California at the time that
 13 she filed this action and is therefore a citizen of California for purposes of diversity
 14 jurisdiction in this matter.

15 2. **Defendant is Not a Citizen of California**

16 14. “[A] corporation shall be deemed to be a citizen of any State by which
 17 it has been incorporated and of the State where it has its principal place of
 18 business.” 28 U.S.C. § 1332(c)(1). A corporation’s “principal place of business” as
 19 used in 28 U.S.C. § 1332(c) is a corporation’s “nerve center,” or “the place where a
 20 corporations’ officers direct, control, and coordinate the corporation’s activities.”
 21 *See Hertz v. Friend*, 130 S. Ct. 1181, 1192 (2010). “[I]n practice, the Supreme
 22 Court explained, “it should normally be the place where the corporation maintains
 23 its headquarters—provided that the headquarters is the actual center of direction,
 24 control, and coordination. . . and not simply an office where the corporation holds
 25 its board meetings.” *Id.* A corporation’s principal place of business is often the
 26 office which the public considers to be its main place of business.

27 15. Insight Global’s principal place of business is, and was at the time of
 28 the institution of this action, in the State of Georgia. (Declaration of Michael B.

1 Lewis ¶ 2 (Herein Decl.) As Plaintiff alleges in her Complaint, Insight Global “is
 2 headquartered in Atlanta, Georgia.” (Compl. ¶ 3). Insight Global holds its Georgia
 3 office out to the public as its headquarters. (Decl. ¶ 4). Moreover, Insight Global’s
 4 high level corporate officers are based in Georgia and it conducts the business of
 5 managing the corporation from Georgia. Insight Global’s corporate level functions
 6 are performed in the Georgia office, and the majority of executive and
 7 administrative functions, including corporate finance, accounting, human resources,
 8 marketing, and legal are directed from that office. (Decl. ¶ 4).

9 16. Thus, for purposes of diversity jurisdiction in this matter, Defendant
 10 Insight Global is a citizen of Georgia, not California.

11 3. **More Than 100 Individuals Are Putative Class Members**

12 17. Insight Global believes in good faith that, as alleged, the putative class
 13 well exceeds 100 members. (Decl. ¶ 5). Indeed, Plaintiff alleges that “Defendant is
 14 a large company that has procured consumer reports on hundreds, if not thousands,
 15 of job applicants in the past two years using the Consent form.” (Compl. ¶ 41).

16 4. **The Amount in Controversy Exceeds CAFA’s Jurisdictional
 17 Minimum of \$5 Million**

18 18. Pursuant to CAFA, the amount in controversy of diversity jurisdiction
 19 is satisfied when the aggregated claims of the individual members in a putative
 20 class action exceed the sum or value of \$ 5 million, exclusive of interest and costs.
 21 28 U.S.C. § 1332(d)(2), (d)(6). Furthermore, Congress intended for federal
 22 jurisdiction to be appropriate under CAFA “if the value of the matter in litigation
 23 exceeds \$ 5 million either from the viewpoint of the plaintiff or the viewpoint of the
 24 defendant, and regardless of the type of relief sought (e.g., damages, injunctive
 25 relief, or declaratory relief.)” Senate Judiciary Report, S. REP. 109-14, at 42.

26 19. Where, as here, a plaintiff does not expressly plead a specific amount
 27 of damages, a defendant need only make a *prima facie* showing that it is more
 28 likely than not that the amount in controversy exceeds \$ 5 million. *See Abrego v.
 Dow Chemical Co.*, 443 F.3d 676, 683 (9th Cir. 2006) (applying the preponderance

1 of evidence standard to complaints that do not specify a particular amount in
 2 controversy”). “The ultimate inquiry is what amount is put ‘in controversy’ by the
 3 plaintiff’s complaint, not what a defendant will actually owe.” *Korn v. Polo Ralph*
 4 *Lauren Corp.*, 536 F.Supp.2d 1119, 1205 (E.D. Cal. 2008) (citation omitted). This
 5 burden “is not ‘daunting,’ as courts recognize that under this standard, a removing
 6 defendant is not obligated to ‘research, state, and prove plaintiff’s claims for
 7 damages.’” *Korn*, 536 F. Supp. at 1204-05. In cases where statutory penalties are
 8 sought, “district courts in the Southern District of California and the Central District
 9 of California have looked to the statutory maximum . . . in determining whether the
 10 jurisdictional requirements of CAFA have been met.” *Id.* at 1205 (finding that the
 11 defendant could establish CAFA’s jurisdictional minimum by demonstrating that
 12 there were more than 5,000 putative class claims since the statutory maximum
 13 penalty for the plaintiff’s claims was \$1,000).

14 20. Here, Plaintiff seeks statutory damages “of not less than \$100 and not
 15 more than \$1,000” for each class member. (Compl. ¶ 48). Indeed, Insight Global
 16 conducted more than 5,001 background checks in the two years prior to the filing of
 17 this Complaint. (Decl. ¶ 6). Therefore, while Defendant denies Plaintiff’s factual
 18 allegations and denies that she or the class she purports to represent is entitled to the
 19 relief for which she has prayed, it is clear that when the maximum potential values
 20 of the claims of Plaintiff and the putative class members are aggregated, the
 21 allegations within Plaintiff’s Complaint put into controversy an amount well in
 22 excess of \$ 5 million.

23 **V. VENUE IS PROPER**

24 21. Venue is proper in this district, pursuant to 28 U.S.C. § 1441(a),
 25 because the District Court for the Southern District of California is the judicial
 26 district embracing the place where the state court case is pending.

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VI. OTHER PREREQUISITES FOR REMOVAL HAVE BEEN SATISFIED

22. As set forth above, this Notice of Removal is filed within thirty days of service of the Complaint upon Defendant Insight Global, Inc.

23. A true and correct copy of all the process, pleadings, or orders on file in the state court served on Defendant Insight Global, Inc. are annexed hereto as **Exhibit A** pursuant to 28 U.S.C. § 1446(a).

8 24. Defendant will promptly serve Plaintiff with this Notice of Removal
9 and will promptly file a copy of this Notice of Removal with the clerk of the
10 Superior Court of the State of California for the County of San Diego where the
11 action is pending, as required under 28 U.S.C. § 1446(d).

12 **NOW, THEREFORE**, Defendant respectfully requests that this action be
13 removed from the Superior Court of the State of California for the County of San
14 Diego to the United States District Court for the Southern District of California, and
15 that all proceedings hereinafter in this matter take place in the United States District
16 Court for the Southern District of California.

Dated: December 16, 2015

MORGAN, LEWIS & BOCKIUS LLP

By /s/ *Anna Kim*

Anna Kim

Attorneys for Defendant

INSIGHT GLOBAL LLC

(erroneously sued as “INSIGHT GLOBAL, INC.”)